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December 18, 2003

MARVIN ROSENBERG
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FILED ELECTRONICALLY

Marlene H. Dortch
Secretary
Federal Communications commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex-Parte Notice
Docket MB 03-206

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(1) of the Federal Communications Rules, there is transmitted herewith a copy of a written presentation made today to W. Kenneth Ferree, Esq., Chief Media Bureau and Rosalee Chiara of the Media Bureau.

If additional information is required, please communicate with the undersigned.

Very truly yours,



Marvin Rosenberg

cc: W. Kenneth Ferree, Esq.
Rosalee Chiara

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VIA HAND DELIVERY

David Solomon, Bureau Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 0054

Re: EchoStar Satellite Corp. and Word of God Fellowship, Inc.

Dear Mr. Solomon:

On October 10, 2003, Dominion Video Satellite, Inc. ("Dominion") filed a Complaint with the FCC Enforcement Bureau regarding certain practices of EchoStar Satellite Corp. ("EchoStar") and Word of God Fellowship, Inc. ("Daystar") that violate FCC regulations. Dominion's Complaint showed, among other things, that:

- EchoStar trades designated public-interest channel capacity for valuable spectrum in violation of Commission Rules; and
- Daystar uses its designated noncommercial television broadcast stations for improper commercial purposes.

On November 17, 2003, EchoStar filed notification of an ex-parte telephone conversation between an EchoStar representative and a member of the Commission's staff.¹ In this ex-parte

¹ While Dominion initially presented these issues to the Commission in Docket MB 03-206, Dominion presented the identical issues to the Enforcement Bureau in its October 10 Complaint. Dominion informed the Media Bureau of

notification, EchoStar revealed that it had asked the Commission not to include or consider public-interest carriage issues. Dominion respectfully takes this opportunity to respond to EchoStar's ex-parte communication, and to bring additional information to the Commission's attention regarding EchoStar's improper use of public-interest channel capacity, and Daystar's improper activities under its non-commercial educational FCC licenses.

1. Response to EchoStar ex-parte communication.

In its ex-parte communication, EchoStar takes the position that dual carriage of a national feed and a local feed "makes no sense." This argument ignores important regulatory requirements and policies relating to localism in television broadcasts. Indeed, there are specific regulatory requirements for local noncommercial educational stations that cannot be met through a national programming feed. For example, a programmer such as Daystar cannot comply with Section 73.621(a) through a purely national feed because that Rule requires a noncommercial educational television station to serve the educational needs of its local community. And, a purely national feed gives no consideration whatsoever to the educational needs of local communities, nor are local citizens playing a role in the programming decisions of these noncommercial stations.

EchoStar's requirement that public-interest programmers trade must-carry rights for public-interest carriage is directly contrary to Commission policy to promote localism in television broadcasts. The Commission should not be taken in by EchoStar's dismissive attitude toward this important issue.

2. Improper fundraising and other commercial activities.

Daystar continues to engage in commercial practices which violate the rules on public-interest channels as well as Daystar's noncommercial licenses. In Commission's Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations, 97 FCC2d 255, 55 RR2d 1190 (1984), the Commission held that, in the absence of a waiver, noncommercial stations are generally prohibited from engaging in fundraising activities which substantially alter or suspend regular programming and are designed to raise support for any entity other than the station itself. Daystar programming is replete with fundraising that is conducted by entities other than Daystar. As an example, enclosed for the Bureau's reference is a copy of a Daystar program featuring fundraising by Mike Murdoch.

In addition, Dominion respectfully submits with this letter a tape showing a Daystar broadcast featuring Reginal B. Cherry, M.D., selling various products in clear violation of Section 73.621 of the Rules. Further, recent newspaper reports show that that Daystar is re-selling public-interest airtime to commercial companies. This is further evidence of Daystar's flagrant violation of the terms of its educational license.²

this action in its Comments on October 16, 2003. EchoStar's ex-parte communication was made in Docket MB 03-206, but concerns issues that are relevant in this proceeding.

² Daystar appears to be substituting its commercial television stations for noncommercial stations on which to continue its commercial activities. For example, Daystar recently sold KMPX-TV (BALCT 2003828ARP), its

3. FamilyNet engages in commercial activities on public-interest capacity.

Another public-interest programmer on EchoStar's DISH Network, FamilyNet, also engages in commercial activities on designated set-aside capacity. EchoStar solicited FamilyNet as a programmer for a public-interest channel with full knowledge that FamilyNet carried commercial programming. While it appears from viewing the channel that some of the commercial programming was eliminated, some commercial programming remains on FamilyNet to this day, including half-hour infomercials masquerading as substantive programming, such as the shows "Healthy, Wealthy and Wise" and "Leilani: A Health Show for Women."

4. Conclusion.

Dominion will continue to provide the Bureau with evidence of EchoStar's and Daystar's violation of Commission rules as uncovered through further investigation and discovery. Please contact the undersigned if you have any questions about the matters raised in this letter.

Respectfully submitted,

DOMINION VIDEO SATELLITE, INC.



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Robert L. Olender, Esq.
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Rosalee Chiara

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commercial television station, for \$37 million, and acquired KDTN, a noncommercial station, for \$20 million (BALET 20030818ABI).

Federal Communications Commission
Commission Registration System (CORES)
CORES Certification Form

I, Marvin Rosenberg, certify that the FCC Registration Number (FRN) listed below is true and correct to the best of my knowledge, information and belief.

FCC Registration Number (FRN)

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